

The GRAM Corporation

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OCT 31 1997

October 30, 1997

Secretary
Federal Communications Commission
1919 M. St N.W.
Washington, D.C. 20554

Re. Comments of
Edward Bie
Proposed Rule
MM. DOCKET 97-182 band

Dear Sir

There are Enclosed for Filing and
Distribution according to Rules and
MM Docket 97-182 band, nine copies
of the Comments of Edward Bie, Sounds
of Service Radio Inc.

Please distribute

No. of Copies rec'd
List ABOVE

If there are any questions about
these comments, please call Edward Bie
at the above numbers, or 813-849-9139

Thank You.

Norman Bie

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OCT 31 1997

FCC MAIL ROOM

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
)
Preemption of state and Local Zoning and)MM Docket No.97-182
Land)
Use Restrictions on the Siting, Placement)
and construction of Broadcast Station)
Transmission Facilities)

COMMENTS OF SOUNDS OF SERVICE RADIO INC.
EDWARD BIE
Submitted on behalf of its owner,
MARIE B. RIVERS,
Licensee owner and co-owner of ten broadcast
licenses, owner of the parent corporation
the GRAM CORPORATION, and of eight licensed
facilities built and operated from 1950 to date.

The experiences of this company since its construction of
its first FCC licensed FM Broadcast Facility in 1968 are
offered to show that the public is being denied the
benefit of modern communications facilities after the FCC
has determined that construction of these facilities does
serve public interest, convenience and necessity.

The cases cited here of actions by multiple Local,
Municipal, County and State authorities, each acting for
different purposes, under laws which are not specific, and
rules under those laws which are so vague as to leave the
interpretation to the personal views of the individual
administrators.

These cases are presented to urge the Commission to
Preempt all State, County and City laws and regulations,

so that once the commission has determined that the Public interest will be served by a broadcast facility, that determination will not be defeated by local authorities.

For cogency and urgency, experiences of the last five years will be offered although a diary of over three hundred instances of local actions impeding federal grants of authority to build and operate, covering sixty five pages of succinctly stated cases of local impeding and preventing actions since 1960 has been kept by the chief engineer of this and ten related and co-owned FCC Licensees.

CASE 1. SOUNDS OF SERVICE-PLANTATION KEY-MONROE COUNTY FL.
1992 FM license. 500 foot tower. built 1968.

Need is to build a new building to house the transmitter and one of its studios after a fire destroyed the facility occupied by it since construction in 1968.

LOCAL AUTHORITY. NO YOU CAN'T BUILD A NEW BUILDING, WE HAVE A MORITORIUM ON ALL NEW BUILDING.

A modular building was rented from GE and a temporary permit to use it was obtained. The Station was back on the air in ten days in make do facilities.

A new building was designed and engineered ten feet by twenty feet, 200 square feet in the middle of 6.5 acres of company owned land. Application was made to the local multiple authorities. Two and a half years later, after nature studies, tree counts on the whole site, not just under the 10X20 site of the proposed building, building code applications each involving 90 to 180 day delay for

planning committee, or zoning committee or growth regulation committee hearings, the building department simply refused to act. It was openly acknowledged that that official was afraid of criticism by other departments, all of whom were simply trying, either directly or indirectly to stop all growth. Pleas based on public need, necessity, FCC determination of public necessity, property rights, citizen rights, State constitution, Federal Constitution and threat of legal action to obtain those rights produced a shrug of the shoulders.

The plan was abandoned in 1995. An alternate plan made. 1995. Urgent need to get out of the deteriorating leased building. An aluminum shed was obtained since this type shed came under a different regulation. Location was on owned ground at the base of the tower, adjacent to the other sheds at the base of the tower housing eight transmitters using the tower as tenants, wireless service, FBI, US Coast Guard, Florida Department of Law Enforcement, Electric company for energy management and telephone companies.

Putting a ten foot wide by twenty foot long concrete slab on the ground next to the tower generated stop orders and threats of prison. Two and a half years later, the fight went on, conditions imposed including ridiculous requirements, the slab was poured in 1997, the shed was set, built out and the FM Transmitter moved from the leased modular temporary mobile trailer to this new shed.

There is so much more to this story. Let me drop it there

so other equally local defeating actions can be illustrated and so that this will not appear as an isolated case.

CASE 2. SAVANNAH GEORGIA. WEAS AM-FM. 1990

Georgia Department of Transportation, in cooperation with the US Corps of Engineers, is dredging the river and harbor to accomodate the large vessels using this port. This deepening has undermined one anchor on private ground owned by the parent of this and ten other radio stations. Further dredging will undermine the whole facility,bring down the tower and undermine the transmitter building. Georgia Department of Transportation wants to solve the problem without destroying the radio station and paying and award for the loss in condemnation. U.S Corps of Engineers does not wish to stop the dredging while the problem is solved because that would damage the public, prevent the harbor improvement and cost the government millions because of the delays. Georgia DOT finds a site suitable for the station and agrees to convey that site and pay all costs of moving the station to this new site,in exchange for the present site.All parties agree. Georgia DOT pays all engineering costs, application costs and the cost of moving the broadcast station to the new location. An FCC construction permit is issued. No settlement can be made, and no move of the transmitter can be done until it is clear that the local authorities will permit the acquired site to be used as a radio station.

Please allow me to state that the last statement alone is a compelling argument, to me, to suggest that the FCC should, ought and must act to see that its determinations of public interest needs and necessity, once they are made, are not defeated.

Local authorities are sincere in the belief that their interests, growth, views, planning for purposes other than public health safety and welfare, zoning for other purposes, and dictation of how private property is to be landscaped are paramount considerations.

The consequence is to defeat the federally approved license.

The Dredge is moving down river, the cutters are approaching the shore, waves are lapping the outer anchor that the Georgia department of Transportation has already moved once at its great expense, short guying the tower but keeping it standing.

Application is made to the local authorities to permit the station to move. They say our planning committee only meets once every six months. Submit your plans by X date and we will consider it at our next meeting in Y. Savannah engineering is apologetic, Building is powerless, management is sympathetic but rules must be followed.

Six months later approval is granted provided that on the periphery of the AM ground system, 300 feet from the base of the tower, maple trees not less than six inches at the base are planted every thirty feet around the circumference of the ground system.!

Please forgive the error if I have not stated the size of

the trees or spacing exactly. The river had widened, the shoreline had receded, the outer anchor was surrounded by thirty feet of water, but the tree condition was accepted, the property closed and the tower moved. More than a year had elapsed between the issuance of the FCC construction permit and the issuance of the local building permit. The tower was moved before it was undermined by the dredging, the margin was small.

Expeditious action had been requested of the FCC at the time of application, and that request had been granted.

CASE 3. PLANTATION KEY 1994-95-96-97 MONROE COUNTY, FL.

500 foot tower serving ten communications licensees including three federal agencies. Area unserved by other licensees seeking to build telephone service and underserved by those occupying space on this tower. more than ten licensees need tower space to locate their antennae. Engineering done for building a new tower adjacent to the present tower. ten to thirty feet separation. Sufficiently strong to accomodate thirty of more new licensees, telephone companies, government agencies, whoever need to be there and is licensed by the FCC. This is in the middle of a twenty-four acre tract owned by Sounds of Service Radio Inc.'s parent company. No FAA objection, all FCC requirements for licensing met, first need to obtain a building permit from the multiple agencies under Monroe County.

LOCAL AGENCIES SAY NO.

Bullding moratorium, no building, don't care what needs are or what federal agencies determine. although present

zoning allows towers, we are studying plans to change both the plans and the zones, and if they are changed they may not allow towers, besides you will disturb mangrove root under the base of the tower (150 square feet) and have to add anchors (100 square feet).

Plans are submitted to the Corps of Army Engineers, the South Florida Water Management District, (SFWMD) the Department of Environmental Protection, (DEP), the Department of Community Affairs (DCA) and a couple of others. the Corps of Engineers say yes and issue a permit. (Minimal involvement with wetland, privately owned.) SFWMD finally says yes after some objections to the Tower Design. (build self supporting tower or put johnny balls on the guys so birds will be warned not to fly into them. DEP finally agrees to go along with the Corps of Engineers provided the base of the tower disturbs no more than 150 square feet of roots, (but still hasn't issued its letter) Appeal to the State level of the DCA finally brings agreement that they will withdraw objections (moratorium, need, tower design, tower location, mangrove, tide flow, water flow, runoff of rain from building roof onto owned land, and more) none related to our concept of public health, safety or welfare.

BUILDING DEPARTMENT AND ITS COMPONENTS STILL SAY NO.

(Submit detailed drawings by a florida registered engineer to a study organization which we will name, pay the cost of that study, and we will analyze every bolt in that tower, besides we have a new wind code that requires

protection to 156 miles per hour, besides you will need an electrical permit (even though you are going to utilize the electric service that is already there and permitted.)

I just have to stop. I hope the point is made and the absolute necessity for federal authority is demonstrated. Monroe county Communications Director relates that they have five communication towers, all at least 200 percent overloaded, and that they are acutely in need of additional towers and antenna space. They have solved a part of their needs by promising to get Monroe County to grant a permit to build a tower, to a federal holder of an FM construction permit, who has been trying to build his licensed facility for more than four years ;

(I believe this estimate of time is correct, the FCC CP is a matter of public record).

PROVIDED THAT, the Licensee donate to the county space for twelve communications antenna on they will allow him to build, indefinitely and for free. (current market value of those spaces is more than \$750.00 per month, each.

CASE 4. MONROE COUNTY , MARATHON FL. SOUNDS OF SERVICE. 1997. Marathon grossly unserved in communications. some licensed companies cant be heard there. transmitters too far away. can't obtain tower space. City and county prevention on towers. Sounds of Service finds an ideal location for a 200 foot tower. industrial area, other utility) tower in neighborhood, no trees, no other agency federal or state involved, no environment involved. option or a 25X25 foot parcel is obtained. then to the city for

permit.

NO YOU CANNOT BUILD A TOWER THERE.

Why not? Answer because it is zoned
"COMMERCIAL FISHERMAN"!

What is that? A. "That means that the property can only be used for anything that serves commercial fishermen!"

Fine. Every commercial fisherman uses all modern means of communication, radio, telephone, GPS,DCI,ship to shore,CB,etc. They must have it and it is essential when they set their nets, locate their traps, communicate with the Coast Guard,advise on marine obstructions,and provide for their own safety. could anything be more clear?
ANSWER NO.

We want to talk to the head of the department. We get an appointment a week later. He brings in his communications specialist. We try all of these persuasions just to interpret their own rule. She says NO.

We try one last argument. You know that the Federal communications Commission has already determined that these telephone and broadcast communication services are necessary in the public interest!

"She says:"You aren't going to throw the Communications Act of 1996 in my face, are you ?"

We say " We were hoping that you and the Federal Communications Commission were on the same side."

She says "The answer is still No."

We left,have obtained the property, the drawings and have engineering drawings on the way for a simple, 200 foot, monopole for which we will apply for a building permit.

If only the FCC had already exercised its authority of Preemption. If application for construction of a federally licensed facility could be submitted to all local authorities at the time of application to the FCC and other federal agencies that are involved. And If,and may we suggest, that State, county and Local agencies could be given thirty days to submit objections, based solely on public health or safety,it would open the door to the public being served by several thousand licensed

facilities that are now being impeded or prevented.

(the FAA reports that they have received more than 5000 applications in 1997.) How many are being prevented, stalled, or subjected to ruinous financial requirements can only be estimated by the fact that so many construction permits are issued by the FCC and so many are not yet built.

Respectfully Submitted.

October 30, 1997

Sounds of Service Radio Inc, by EDDIE Bie, VP,
on behalf of Marie B. Rivers, WGUN AM, WGOV-AM;
WAAC-FM, and former stations, KJMS, Memphis, Tn,
WEAS-AM, Savannah, GA.; WEAS-FM Savannah GA.
WSWN-AM, Belle Glade, FL; WBGF-FM, Belle Glade,
FL.; WCTH-FM, Plantation Key, FL. and WCSP
Casper, WY.